

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.9148/2007
Ramavtar and another Vs. Rameshwar and
another

Date of order : 28/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri M.K. Jain for the petitioners.

The petitioners have challenged the order dated 29.8.2007 whereby the application of the respondent in proceeding under Section 372 of the Indian Succession Act, 1925 for placing on record copy of the will has been allowed and the will has been taken on record with the stipulation that the question as to its correctness and the in-visibility shall be decided at the stage of evidence. Learned counsel for the petitioner argued that relevance of the will has to be decided before the Will itself is allowed to be taken on

record. Learned counsel has cited the judgment of his Court in Madanlal and Anr. vs. Rent Tribunal, Alwar and Anr., 2006 (2)DNJ 820 and on that basis argued that even in the proceedings of summary nature, a document cannot be allowed to be taken on record unless it is held to be irrelevant.

Having heard the learned counsel for the petitioner and perused the impugned order, I find that the document like will by its very nature if under Section 372 of the Indian Succession Act is allowed to be taken on record, the question as to its admissibility and correctness would not cause any prejudice to the petitioner particularly when the proceedings under Section 372 of the Indian Succession Act are only summary in nature and the learned District Judge in taking the will on record has also awarded costs to the

petitioner. What would be the relevance would be a question which the learned District Judge has to decide at the time of final disposal. In the circumstances, I do not find any good reason to interfere in the order.

The writ petition is dismissed.

(MOHAMMAD RAFIQ), J.

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